

HAVANT BOROUGH COUNCIL

COMMUNITY RIGHT TO BID – POLICY AND PROCESS

1.0 Community Right to Bid: Policy statement

- 1.1 The Council recognises the added value that can be brought to communities through the transfer of assets to the community, and are committed to working with those groups who wish to preserve “assets of community value” which further the interests and social wellbeing of the local community.
- 1.2 The Right to Bid for Assets of Community Value is provided for by the Localism Act 2011.

2.0 Community Right to Bid: the process

- 2.1 The Government has published an Assets of Community Value Policy Statement and Statutory Regulations, which set out statutory elements of how the Community Right to Bid should operate; however, they do not specify how the Right should be administered by individual local authorities.
- 2.2 This section of the policy statement explains the local process in both Council areas for operation of the Right.

3.0 Overview of the process

- 3.1 The Community Right to Bid process comprises the following:
 - a) Voluntary/community bodies with a local connection will be able to identify land and buildings (“land”) as being of community value. The regulations define in more detail the voluntary or community bodies that may nominate land as being of “community value”. To do so, they need to fall within a defined class of bodies and also have a “local connection” (see Appendix A for definitions).
 - b) Examples might include a local shop, pub, swimming pool, playground or other facility that is of value to the community. A list of examples of assets which are and which are not considered as community assets can be found at Appendix B.
 - c) If the Council accepts the nomination, the land must be included in a list of “assets of community value”. The Council must also keep a list of rejected nominations.
 - d) An owner is entitled to request a review by the Council of a decision to add land to the list of assets of community value. An owner is entitled to a further appeal to the First Tier Tribunal, which is part of HM Courts and Tribunals Service.

- e) If an owner wishes to enter into a “relevant disposal” of the land, then they must first notify the Council of their intention. This triggers an “interim moratorium period” of six weeks, during which community interest groups may submit a written request to be treated as a potential bidder in relation to the land. A “relevant disposal” cannot take place during this period.
- f) At the end of the six week period, and if no request to be treated as a potential bidder is received, the owner is entitled to go ahead with the disposal, provided that it is completed within eighteen months of when they notified the Council of their wish to dispose.
- g) If a request to be treated as a potential bidder is received within the six week period, the full moratorium period comes into play. This lasts for six months from the date of the owner’s notice of a wish to dispose. Again, a “relevant disposal” cannot take place during this period.
- h) Community interest groups have no rights other than to seek to negotiate to buy the land. The owner is under no obligation to sell to a community interest group.
- i) If the full moratorium period expires either without a community interest group bidder coming forward, or without a successful purchase by such a group, then the owner is entitled to go ahead with a disposal, provided it is completed within eighteen months of when they notified the Council of their wish to dispose.
- j) An owner is entitled to compensation for loss or expense that they would not have occurred but for the listing. There are rights of review and appeal.

4.0 Details of the procedure

Submitting a nomination

- 4.1 Nominations must include certain information, including the nominator’s reasons for thinking that the Council should conclude that the land is of community value. Upon receipt of a request to nominate an asset, the Council will issue the “Request to Nominate an Asset of Community Value” form, and guidance notes, to be completed by the nominator to ensure the Council receives all the information required to assess the application (Appendix C).
- 4.2 On receipt of the completed “Request to Nominate an Asset of Community Value” form, form will be reviewed by the Community Asset Project Group to ensure sufficient information has been included to allow the nomination to be assessed. If further information is required the Nominator will be contacted to capture all necessary information. Once all information has been received, the application will be deemed to be valid and an

acknowledgement letter will be sent to the Nominator within 3 working days of the valid date.

- 4.3 A meeting of the Community Asset Project Group will be convened to consider the nomination and make a recommendation for decision. The Community Asset Project Group consists of representatives from Service Support, Legal, Property, Planning Policy and Community. The Group is chaired by the Head of Communications and Community Engagement.
- 4.4 Letters (Appendices D and E) will be sent to the following advising them that a request has been received under Community Right to Bid:
 - Asset owner
 - Holder of the freehold estate
 - Holder of the leasehold estate
 - Any lawful occupants
 - Ward Councillors
 - Parish Council

- 4.5 The nomination will also be advertised on the Council's website.

Determining the nomination

- 4.6 Once a nomination has been made, the Council must accept the nomination if it is from a qualifying body and the Council concludes that the land is of "community value". The Council has eight weeks from the valid date of the nomination to make a decision.
- 4.7 For the purpose of assessing the nomination, the proposed community asset must meet the following criteria:
 - The use of the land or building currently, or in the recent past, furthers the social wellbeing or cultural, recreational or sporting interests of the local community.
 - This use (as described above) of the building will continue to further the social wellbeing or interest of the local community
 - The use of the land or building to further social wellbeing or interests of the community must be its principal use, not a secondary or ancillary one
- 4.8 The Community Asset Property Group will assess the nomination using the "Social Value Criteria and Scoring Sheet" (Appendix F). Their recommendation is submitted to the Head of Communications and Community Engagement who, in consultation with the relevant Portfolio Holder, will determine the application. The Head of Communications and Community Engagement and the relevant Portfolio Holder may consult further within the council if required.
- 4.9 The decision will be issued to the nominator (Appendix G) and interested parties (Appendices H and I) advising them of the outcome.

- 4.10 The Corporate Support Manager will advise Land that an asset has been listed; the Senior Property Services Officer will update the List of Community Assets.

5.0 Rights of review and appeal

Decision not to list as an asset of community value

- 5.1 There is no right of review or appeal against a decision not to list land as being of community value. However, legal challenge is still possible through the Judicial Review Process.

Decision to list as an asset of community value

- 5.2 An owner has a right to ask for a review of a decision to list an asset. This request must be made within eight weeks of the decision. The owners have a right to a hearing and to legal representation.
- 5.3 The regulations state that the review must be carried out by “an officer of the authority of appropriate seniority who did not take part in the decision to be reviewed”. The regulations do not allow for a review by Councillors. The officer authorised to carry out a review is the Executive Director for Strategy and Governance.
- 5.4 Owners dissatisfied with a review decision have a right to appeal to the First Tier Tribunal, which is part of the court system and deals with appeals against administrative decisions.
- 5.5 If the nominator is not satisfied with the Council’s decision, they can request that the Council reviews its decision. This will be taken as a corporate complaint and dealt with in accordance with the Council’s complaints procedure.

6.0 The List of Assets

- 6.1 The Council must maintain a List of Assets of Community Value. It must also maintain a list of rejected nominations, including the reasons for rejection. Entries on the List of Assets of Community Value are to be removed after a period of five years from the date of nomination. Entries on the list of rejected nominations will also be removed from the list after a period of five years.

7.0 Moratorium period

- 7.1 If land is listed as being of community value, then the owner must give the Council notice before entering into a “relevant disposal” of the land. It is important to note that not all dealings with the land will amount to a relevant disposal. Dealings that are not relevant disposals will not be caught by the moratorium period and the owner does not have to let the Council know

about them. A list of dealings that fall outside the class of relevant disposals can be found at Appendix J.

- 7.2 The owner must notify the Council of its wish to enter into a “relevant disposal”. This triggers an “interim moratorium period” of six weeks, during which community interest groups may submit a written request to the owner to be treated as a potential bidder in relation to the land. A “relevant disposal” cannot take place during this period.
- 7.3 If no request to be treated as a potential bidder is received, the owner is entitled to go ahead with the disposal, provided that it is completed within eighteen months of when they notified the Council of their wish to dispose. If a request to be treated as a potential bidder is received, the full moratorium period comes into play. This lasts for six months from the date of the owner’s notice of a wish to dispose. A “relevant disposal” cannot take place during this period.
- 7.4 Community interest groups have no rights other than to seek to negotiate to buy the land. The owner is under no obligation to sell to a community interest group.
- 7.5 If the moratorium period expires either without a community interest group bidder coming forward, or without a successful purchase by such a group, then the owner is entitled to go ahead with a disposal, provided it is completed within eighteen months of when they notified the Council of their wish to dispose.

8.0 Enforcement

- 8.1 The Council has no express enforcement duty and there is no criminal sanction against non-compliance by an owner. The sanction provided is that a non-compliant disposal will be ineffective. (That is, unless the owner has made all reasonable efforts to find out if the land is listed, and does not know at the time of disposal that it is listed.)

9.0 Compensation

- 9.1 An owner is entitled to compensation for loss or expense which they would not have incurred but for the listing, specifically if the owner believes that they have incurred loss and expense in complying with either (or both) the six week initial notification period and six month moratorium period which has resulted in delay to entering into a binding legal agreement to sell the asset.
- 9.2 The regulations state that the review must be carried out by “an officer of the authority of appropriate seniority who did not take part in the decision to be reviewed. The regulations do not allow for a review by Councillors.
- 9.3 Applications for compensation must be submitted in writing to the Executive Director for Commercial, who will consult with the Community Asset Project

Group before determining the compensation. A decision will be reached within eight weeks of receipt of the application for compensation.

- 9.4 Owners dissatisfied with a review decision have a right to appeal to the Council in the first instance, and then to the First Tier Tribunal, which is part of the court system and deals with appeals against administrative decisions.

Appendices

- A Definitions of local connections
- B Examples of assets which are or are not community assets
- C Request to nominate an asset of community value form and guidance
- D Letter to owner advising of receipt of a nomination
- E Letter to interested parties advising of receipt of a nomination
- F Social value criteria and scoring sheet
- G Letter to nominator advising of result assessment
- H Letter to owner advising of result of assessment
- I Letter to interested parties advising of result of assessment
- J Dealings that fall outside the class of relevant disposals

Appendix A

Definitions of local connections

For a local group to be able to nominate land it will have to demonstrate that its activities are wholly or partly concerned with the local authority area where the asset sits or with a neighbouring authority. The voluntary or community bodies which may make community nominations are set out below:

Parish Councils

This may be for an asset in its own area, or in the neighbouring parish council.

Neighbouring Parish Councils

If the parish council borders an unparished area, then they may nominate an asset within that neighbouring local authority.

Unincorporated groups

Nominations can be accepted from any unincorporated group with membership of at least 21 local people who appear on the electoral roll within the local authority, or a neighbouring local authority. This will for instance enable nomination by a local group formed to try to save an asset, but which has not yet reached the stage of acquiring a formal charitable or corporate structure.

Neighbourhood forums.

The procedure for becoming a neighbourhood forum is set out in section 61F of the Town and Country Planning Act 1990, added by the Localism Act 2011. There can only be one neighbourhood forum for an area. Existing community groups, civic societies and others can put themselves forward to be a 'neighbourhood forum'. Prospective neighbourhood forums need to ensure they meet the conditions for designation set out in the legislation, for example a forum should have an open membership policy and seek to draw its membership from across the neighbourhood area and from different sections of the local community.

Community interest groups with a local connection

These must have one or more of the following structures:

- a) A charity
- b) A community interest company
- c) A company limited by guarantee that is non profit distributing
- d) An industrial and provident society that is non- profit distributing (these groups will be renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 when it comes into force)

In this context, non-profit distributing means that any surplus is not distributed to its members but is wholly or partly applied to the local authority area where the asset is based or to a neighbouring authority area.

Appendix B

Examples of assets which are or are not community assets

What is an “asset of community value”?

An asset of Community Value is one which has a principal use, either currently or in the recent past, that furthers the social wellbeing or cultural, recreational or sporting interests of the local community and that this use will continue to further the social wellbeing or interests of the local community.

Where the asset does not currently demonstrate ‘community value’ (as above), it may still be nominated where it is possible to demonstrate that the asset’s main use did further the social wellbeing or cultural, recreational or sporting interests of the local community in the recent past and where it is realistic to think that it will do so again in the next five years.

What kinds of assets could be considered as having ‘community value’?

The following examples give an indication of the types of assets which may be defined as having ‘community value’:

Education, health and wellbeing or community safety

This could include:

- Nurseries and schools
- Children’s centre
- Health centre, surgeries and hospitals
- Day care centre, residential care homes

Sport, recreation and culture

This could include:

- Parks and open green spaces
- Sports and leisure centre
- Libraries
- Theatres
- Museums or heritage sites
- Cinemas
- Swimming pools/lidos

Community services

This could include

- Community centre
- Youth centre
- Public toilets

Local democracy

This could include

:

- Town, civic and guild halls

Any economic use (e.g. a business such as a shop) which also provides an important local social benefit which would no longer be easily available if that service should cease

This could include:

- Village shops
- Pubs
- Markets

What kinds of assets would not normally be considered as having ‘community value’?

- Administrative offices
- Land or property which has not had legal and authorised community use
- Land attached to residential property (although the regulations set out certain exceptions for shops and pubs)
- Land covered by Caravan Sites and Control of development Act 1960
- Land used by public utilities, defined as operational land in section 263 of the Town and Country planning Act 1990

The Regulations should be consulted for the full list of exemptions and related definitions.

Appendix C

Request to nominate an asset of community value form and guidance

Please read the accompanying guidance notes when completing this form.
If you have any queries, please contact Nicki Conyard, Community Team Leader on
02392 446279 or email: nicki.conyard@havant.gov.uk

PART A: ABOUT YOU

A1	Title	
	First name	
	Surname	
	Address	
	Postcode	
	Telephone number	
	E-mail address	
	Your relationship to the organisation	

PART B: ABOUT YOUR ORGANISATION

B1	Organisation name	
B2	Organisation type	
B3	Please describe its connection to the area	
B4	Charity registration no (if applicable)	

If not a registered charity, please attach evidence of your organisation's status such as Articles of Association and registration numbers, where applicable.

If your organisation is an unconstituted community group, please state how many members your organisation has and attach a list of names and home addresses of 21 members registered to vote in the nomination area.

PART C: ABOUT THE ASSET

C1	Name of asset	
C2	Address and/or location of the asset including post code	
C3	Description of the asset and its boundaries	(you may attach photos and/or a plan as supporting evidence)
C4	Background to asset:	
C5	What is the asset?	(you may attach documents as supporting evidence) Any information entered here may be copied and passed onto the owner of the property you are nominating; the rest of your nomination will not be shared with the owner.
C6	Why is the asset important to the community?	LAST PUB IN THE VILLAGE
C7	What difference will the asset make to the community?	WELLBEING FACTORS
C8	Which sections of the community can access the asset?	
C9	Will this change if the asset is managed by the	

	community?	
C10	Current owner's name and address (if known)	
C11	Names of the current occupants (if known)	

You may attach photos, maps, plans and other documents to help us correctly identify the asset and to support your nomination.

Submit your completed form by email to Amanda.Fincham@easthants.gov.uk or post it to: Amanda Fincham, Corporate Support Manager,, East Hampshire District Council, Penns Place, Petersfield, GU31 4EX

Guidance notes on completing the form

A1	Please give details of the main contact for this request to nominate a community asset. This would be the person who will receive all correspondence on behalf of the organisation and needs to have authorisation from the organisation to do so.
B1	Please give details of the registered name of the organisation.
B2	Please give details of the type of organisation who is applying bearing in mind that it MUST be one of the following: parish council, unincorporated body, charity, company limited by guarantee/industrial society/provident society that does not distribute a surplus to its members, community interest company. If it is "an unincorporated body" it must have at least 21 individual members who are Havant/East Hampshire electors and it must not distribute any surplus it makes to its members
B3	Please give details of the connection the organisation has to the nominated asset. This might be that the asset is currently used by the organisation or that it is situated within a certain parish boundary.
B4	Please state your Charity Registration No. if applicable.
Any information entered in Section C may be copied and passed onto the owner of the property you are nominating.	
Information in Section A and B will not be shared with the owner.	
C1	Please state the name the asset is commonly known by.
C2	Please state the postal address of the asset or its location including a post code if possible
C3	Please give a full description of the asset and include a plan as supporting evidence of its location. You may also include photographs and other material relating to the asset.
C4	Please tell us about the background to the asset. This could include its history,

	its former use and current use.
C5	Please categorise the asset. Is it a public house, park, open space for example? You may wish to include further information as supporting evidence.
C6	You need to demonstrate why the asset is of importance. This could be that it is the last public house in a village setting or a park which is at risk of being developed.
C7	We need to know why this asset makes a difference to the community, what would result without the asset and how this contributes to the well being of the community.
C8	Please tell us which sections of the community currently access the asset. This could be older people, children and young people, disabled people or minority groups
C9	If the asset is subsequently managed by the community will the user groups change?
C10	Please give us any contact details you know about the current owner of the asset and the current occupants if you know them.
C11	

Appendix D

Letter to owner advising of receipt of a nomination

Dear Sir/Madam

Localism Act 2011 (chapter 3): request to register an asset of community value

I am writing to advise you that on the (DATE) the Council has received a request to list (INSERT NAME AND ADDRESS OF ASSET) as an asset of community value.

The Council will decide whether the nominated asset should be included in the list of assets of community value within eight weeks of receiving the nomination. You will be notified of the Council's decisions and the reasons for arriving at that decision. This information will also be published on the Council's website.

If the Council determines that the asset should be listed, it will remain on the list for a period of five years. The Council will also notify the Land Registry as the listing is a registered restriction upon the property (and a Local Land charge).

As the owner of the asset, you may ask the Council to review its decision. In these circumstances, the Council will acknowledge receipt of the request to review within three working days and will advise the owner of the process to be followed.

Should you require any further information regarding this application or the process in general, guidance is available via the links below. Alternatively please contact Mrs Nicki Conyard who will happy to help.

<http://www.communities.gov.uk/documents/communities/pdf/2229703.pdf>

<http://locality.org.uk/wp-content/uploads/Right-to-Bid-a-quick-guide.pdf>

Yours sincerely

Tom Horwood
Executive Director

Appendix E

Letter to interested parties advising of receipt of a nomination

Dear Sir/Madam

Localism Act 2011 (Part 5, chapter 3): request to register an asset of community value

I am writing to advise you that on the (DATE) the Council has received a request to list (THE ASSET) as an asset of community value.

The Council will decide whether the nominated asset should be included in the list of assets of community value within eight weeks of receiving the nomination. You will be notified of the Council's decisions and the reasons for arriving at that decision. This information will also be published on the Council's website.

If the Council determines that the asset should be listed, it will remain on the list for a period of five years. The Council will also notify Land Registry as the listing is a registered restriction upon the property (and a Local Land charge).

Once the asset has been listed, the owner would have to notify the local authority if they wish to dispose of the asset. A six week interim moratorium would then follow to allow community interest groups to make a written request to be treated as a potential bidder. If none do so the owner is free to sell their asset at the end of the six week period.

If a community interest group does make a request during this interim period, a full six month moratorium will operate. During this period the owner may continue to market and negotiate sales, but may not exchange contracts or enter into a binding contract to do so later, unless they are selling to a community interest group. After the moratorium period, the owner is free to sell to whomever they choose at whatever price. For further information please refer to page four of the Community Right to Bid advice note available via the link provided at the end of this letter.

Should you require any further information regarding this application or the process in general guidance is available via the links below. Alternatively please contact Mrs Nicki Conyard using the contact details at the head of this letter.

<http://www.communities.gov.uk/documents/communities/pdf/2229703.pdf>

<http://locality.org.uk/wp-content/uploads/Right-to-Bid-a-quick-guide.pdf>

Yours sincerely

Tom Horwood
Executive Director

Appendix F

Social value criteria and scoring sheet

The scoring sheet aims to ascertain whether or not a nomination for inclusion on the Community Asset Register is viable and therefore should be recommended for inclusion.

For the purposes of assessing the nomination the proposed community asset must meet the following criteria:

- The use of the land or building currently, or in the recent past, furthers the social well-being or cultural, recreational or sporting interests of the local community.
- This use (as described above) of the building will continue to further the social well-being or interest of the local community.
- The use of the land or building to further social well-being or interests of the community must be its principal use, not a secondary or ancillary one.

Applicant Name	
Applicant Address	
Asset Name	
Asset Address	

Social Impact	Now / Recent (last 5 years)	Future Use (next 5 years)
Is it a place to meet and socialise?		
Is it a recreational / cultural or sporting facility?		
Is it a place that offers advisory / charitable / medical / educational facilities?		
Does the land / building serve any religious purposes?		
Does the land or building have a special resonance for the local community? E.g. is it linked to some present or historical local event, such as the site of a local fair or the commemoration of an event?		
Does the land / building further the interests of any organised societies / activities?		
Comments:		

Economic Impact	Now / Recent (last 5 years)	Future Use (next 5 years)

		years)
Is it a place to purchase goods or services?		
Does the building offer any skills / training / development to the inhabitants of the community?		
Does it offer employment to the benefit of the local community?		
Other economic impact		
Comments:		

Environmental Impact	Now / Recent (last 5 years)	Future Use (next 5 years)
Is it an open space available to the community?		
Does it contribute to any historic / conservation objectives (e.g. SINC, SSSI, AONB, Listed / Scheduled designations)?		
Does it offer any aesthetic / architectural qualities which enhance the social well-being of the area?		
Does it provide an opportunity for local people to grow their own produce?		
Comments:		

Equality Impact		
Is it open and / or available for the whole community to access?		
	Yes / No	Comments
Age		
Race		
Religion / Belief		
Pregnancy / Maternity		
Disability / Health		
Gender / Gender Reassignment		
Sexuality		

Additional information / Demographics

Panel Members	
Name	Position

Recommendation:

Date:

Appendix G

Letter to nominator advising of result assessment

Dear Sir/Madam

Asset of Community Value: Decision notice pursuant to Section 91(2) of the Localism Act 2011.

I am writing to advise you that the Council has considered your request to list (THE ASSET) as an asset of community value and has determined that the above mentioned site is an asset of community value and therefore will be added to the List of Assets of Community Value held by the council

The Council has cited the following reasons for determining that the nomination should be added to the list:

-
-
-
-

This asset will remain on the List of Assets of Community Value for a period of five years. The Council will also notify Land Registry as the listing is a registered restriction upon the property (and a Local Land charge).

The owner of the asset may ask the Council to review its decision. In these circumstances, the Council will acknowledge receipt of the request to review its decision within three working days and will advise the owner of the process to be followed. As you are the named nominee for listing, we will inform you of the outcome of any request to review the decision, or of any intention of the owner to enter into a relevant disposal of the land if the land remains on the list of assets after a review or otherwise.

Should you have any further queries please contact Nicki Conyard on either by email at nicki.conyard@havant.gov.uk or by telephone on 02392 446 279.

Yours sincerely

Tom Horwood
Executive Director

Letter to owner advising of result of assessment

Dear Sir/Madam

IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY

Asset of Community Value: Decision notice pursuant to Section 91(2) of the Localism Act 2011.

The Council has considered a request to list (THE ASSET) as an asset of community value. It has determined that the above mentioned site is an asset of community value and therefore will be added to the list held by the Council.

The Council has cited the following reasons for this decision:

-
-
-
-

This asset will remain on the List of Assets of Community Value for a period of five years. The Council will also notify Land Registry as the listing is a registered restriction upon the property (and a Local Land charge). As an owner of the land your attention is drawn towards section 95 of the Localism Act 2011 which explains the consequences of the Council's decision to list the land as an asset of community value. To assist section 95 of the Act is enclosed with this letter.

The Act states that you cannot enter into a relevant disposal of the land until certain conditions have been met as determined by section 95. For this purpose a "relevant disposal" includes a disposal of the freehold estate with vacant possession or a grant or assignment of a qualifying leasehold estate. Section 95(2) requires you to notify the Council of any intention to enter into a relevant disposal of the land. The purpose of the legislation is to allow for a community interest group or other persons/bodies to be treated as a potential bidder for the land.

This means that you would have to notify the local authority if you wish to dispose of the asset. A six week interim moratorium would then follow to allow community interest groups to make a written request to be treated as a potential bidder. If none do so you would be free to sell the asset at the end of the six week period.

If a community interest group did make a request during this interim period, a full six month moratorium would operate. During this period you may continue to market and negotiate sales, but may not exchange contracts or enter into a binding contract to do so later, unless you are selling to a community interest group. After the moratorium period, you would be free to sell to whomever you choose at whatever

price. For further information please refer to page four of the Community Right to Bid advice note available via the link provided at the end of this letter.

Please note that you are advised to consult a solicitor about the further implications of the Act as there exists a right to apply for compensation if you have incurred loss or expense which would be likely not to have been incurred if the land had not been listed.

As owner of the asset, you may ask the Council to review its decision. In these circumstances, you must submit your request for a review within 8 weeks of receipt of the letter notifying you of the Council's decision to list. The Council will acknowledge receipt of the request to review its decision within three working days. The review will be undertaken by a Senior Officer of the Council who was not involved in the original decision making procedure. You, or your representative may make a written or oral representation as part of the review. The final decision following the review will be determined by the Senior Officer within 8 weeks of your request for a review.

If, at the end of the review process, you are not satisfied with the outcome of the review, you can appeal to the First Tier Tribunal against our decision on the listing review (<http://www.justice.gov.uk/about/hmcts/tribunals>).

Should you have any further queries please contact Nicki Conyard on either by email at nicki.conyard@havant.gov.uk or by telephone on 02392 446 279.

Yours faithfully

Tom Horwood
Executive Director

<http://www.communities.gov.uk/documents/communities/pdf/2229703.pdf>

<http://locality.org.uk/wp-content/uploads/Right-to-Bid-a-quick-guide.pdf>

Letter to interested parties advising of result of assessment

Dear Sir/Madam

Localism Act 2011.

I am writing to advise you that the Council has considered a request to list (THE ASSET) as an asset of community value and has determined that the above mentioned site is an asset of community value and therefore will be added to the List of Assets of Community Value held by the Council.

The Council has cited the following reasons for determining that the nomination should be added to the list:

-
-
-
-
-
-
-

This asset will remain on the List of Assets of Community Value for a period of five years. The Council will also notify Land Registry as the listing is a registered restriction upon the property (and a Local Land charge).

The owner of the asset may ask the Council to review its decision. In these circumstances, the Council will acknowledge receipt of the request to review its decision within three working days and will advise the owner of the process to be followed. Should there be a change to the listing you will be notified.

Should you have any further queries please contact Nicki Conyard on either by email at nicki.conyard@havant.gov.uk or by telephone on 02392 446 279.

Yours sincerely

Tom Horwood
Executive Director

Appendix J

Dealings that fall outside the class of relevant disposals

The full list of exemptions is as follows. The first is in a different category to the remainder, in that the moratorium rules will have been triggered by notification from the owner, but the sale will be able to take place during the moratorium.

Categories (b) to (j) are in section 95(5) of the Act, and (k) to (y) are in Schedule 3 to the Regulations. Item (f) – part-listed land – is partly defined in the Act, and partly in the Regulations.

- a. disposal to a local community interest group, which can be made during a moratorium period (interim or full) – see regulation 13(1)
- b. disposals which are gifts (including transfer for no payment to trustees by way of settlement upon trusts)
- c. disposals by personal representatives in accordance with the will of the deceased owner or under intestacy rules
- d. disposal by personal representatives of the deceased owner in order to raise money for matters connected with administration of the estate
- e. disposals between family members (“family member” is defined in section 95(7) of the Act as the owner’s spouse or partner and descendants of grandparents – which includes the owner’s own parents, but not the grandparents)
- f. part-listed land – i.e. sale of a site only part of which has been listed – where it meets the requirements set out in the Regulations (see concluding paragraph for details)
- g. sale of land on which a business is carried on, together with sale of that business as a going concern (in such circumstances there would normally be payment separately for the business as a going concern, e.g. the value of equipment, stock and goodwill)
- h. disposals occasioned by somebody becoming or ceasing to be a trustee
- i. disposal by trustees in connection with the trust, as specified
- j. a disposal occasioned by a person becoming or ceasing to be a partner in a partnership
- k. transfers made in pursuance of a court order
- l. transfers (not in pursuance of a court order) as part of a separation agreement between spouses or civil partners (or ex ditto) including agreements for care of dependent children
- m. a transfer (not in pursuance of a court order) for the purposes of any enactment relating to incapacity, with “incapacity” being widely defined to include physical and mental impairment and any interference with capacity to deal with financial and property matters

- n. a disposal made in pursuance of a legally enforceable requirement that it should be made to a specific person, including disposals required under planning obligation agreements; and in the case of an option to buy, nomination right, pre-emption right or right of first refusal only if the agreement was entered into before the land was listed (and in this context it should be noted that an option etc entered into *after* the land is listed would count as a relevant disposal under section 96(4) of the Act)
- o. disposals of a description which brings them within the Crichel Down rules (where the land was acquired by compulsory purchase but is no longer needed, and the disposal is by way of return to the original owner or their descendants) – see DCLG Circular 06/04 “Compulsory Purchase and the Crichel Down Rules”:
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/191885.pdf>
- p. sale by a lender under a power of sale (i.e. where the land was security for a loan)
- q. disposal of land under bankruptcy or other insolvency proceedings – the wording is “insolvency proceedings as defined by Rule 13.7 of the Insolvency Rules 1986”, which gives a very wide definition of insolvency proceedings
- r. compulsory purchase disposals (see the wide definition of “statutory compulsory purchase” in regulation 1, which includes disposals by a purchaser deemed to acquire the land compulsorily under a statutory blight notice, and also disposals by agreement where a compulsory power could be used)
- s . the disposal is a part-listed disposal of a description specified in regulations made by the appropriate authority, and for this purpose “part-listed disposal” means a disposal of an estate in land –
 - (1) part of which is land included in a local authority’s list of assets of community value, and
 - (2) part of which is land not included in any local authority’s list of assets of community value.
- t. the grant of a agricultural tenancy to a successor on the death or retirement of the current tenant pursuant to Part 4 of the Agricultural Holdings Act 1986
- u. transfers between connected companies in a group of companies (using the definition of “group undertaking” in section 1161(5) of the Companies Act 2006, modified to restrict “undertaking” to a body corporate)
- v. disposals of part-listed land – this is the second part of the definition, the other part being in the Act – section 95(5)(e)5. See final paragraph below for details.
- w. disposals of closed Church of England churches under Part 6 of the Mission and Pastoral Measure 2011: the lengthy process in Part 6 of the Measure involves public consultation, and at the end of it the building will either be sold or leased for an agreed purpose, or demolished, or transferred to the

Churches Conservation Trust for preservation – following which outcomes it will once more be possible to list the building and land if appropriate.

- x. disposals by any owner for the purpose of continuing health service provision on the land (in accordance with section 1(1) of the National Health Service Act 2006)
- y. a disposal of land to be held for the purpose of a school (excluding independent schools), further education institution or 16 to 19 Academy
- z. disposal of land subject to a statutory requirement regarding the making of the disposal, where that requirement could not be observed if the Assets moratorium rules were complied with.